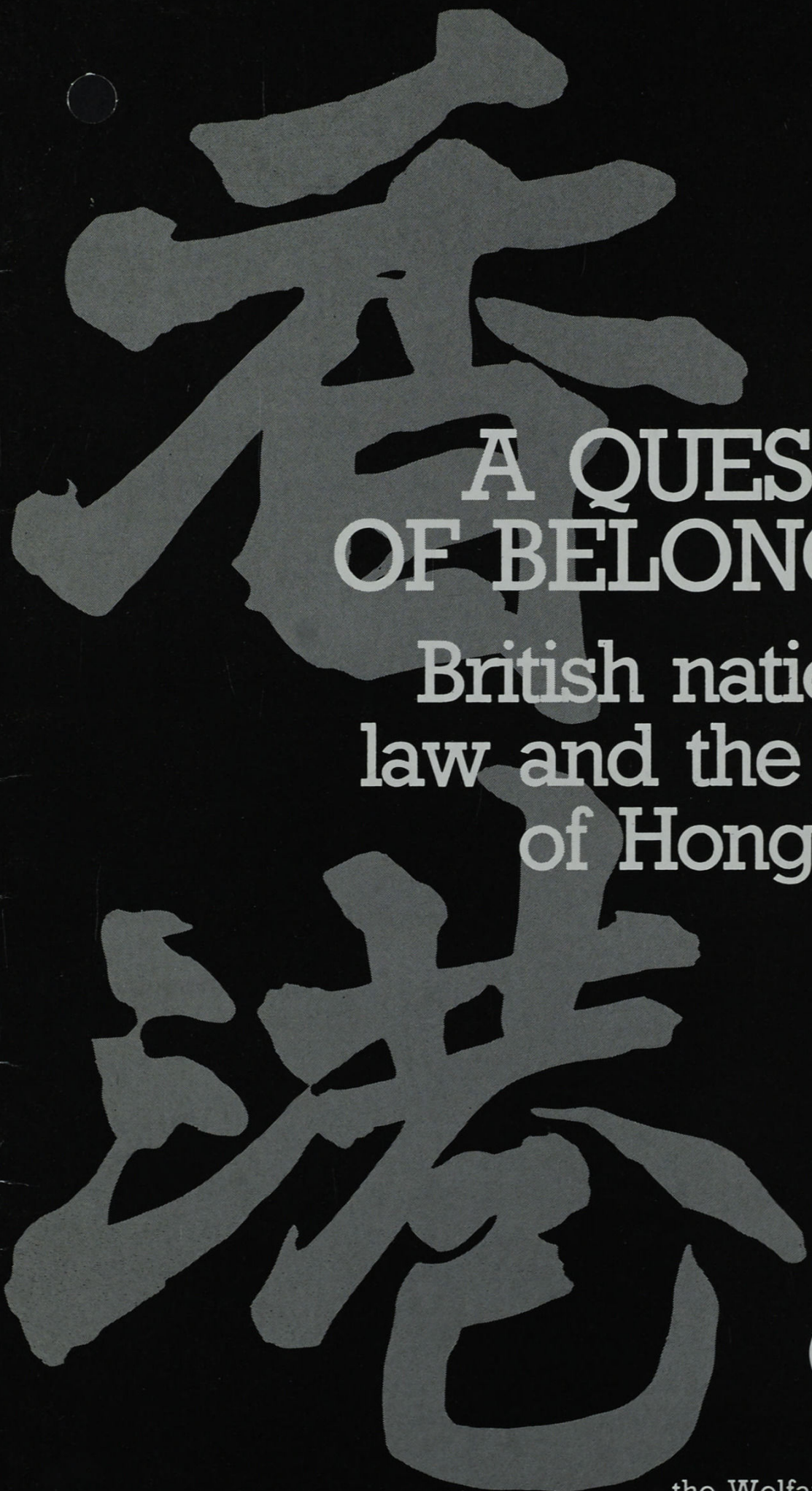

A QUESTION OF BELONGING

British nationality law and the future of Hong Kong

JCWI

Joint Council for
the Welfare of Immigrants

The Joint Council for the Welfare of Immigrants has worked since 1967 to promote justice and remove racial discrimination in Britain's nationality and immigration laws. It is the only national independent organisation whose whole concern is the effect of these laws: it does not accept government money in order to preserve its independence and confidence of the communities it serves. Its Executive Committee is elected annually from its membership of nearly 400 affiliated organisations throughout the UK. JCWI's President is Lord Brockway and its Trustees are Qazi Anwar, Lord Avebury, Professor Michael Dummett and Sarah Leigh.

In 1985, the British Parliament has to decide the future nationality status of its nationals in Hong Kong, as part of the arrangements to hand the territory back to China in 1997. It is important that these changes should provide adequate security for all groups and individuals in Hong Kong, and should reflect Britain's continuing responsibility for its nationals there during a critical period in the territory's history.

During the debates on the Hong Kong Bill in the early part of the year, the Joint Council for the Welfare of Immigrants, together with others in Britain and in Hong Kong, expressed concern about some of the unresolved questions and likely problems of the nationality proposals. JCWI decided to arrange a visit to Hong Kong to consult some of the people directly affected and to ensure that their views were adequately reflected in the final decision about their new status. Anne Owers, the Research and Development Officer, and Raman Ruparell, a JCWI Counsellor, visited Hong Kong between 21 and 31 July 1985.

The list of organisations whose representatives we met is in Appendix 1. We would like to thank all those in Hong Kong who gave us their time, particularly Trini Leung, of Asia Monitor Resource Center, members of the Council of Hongkong Indian Associations, representatives of Hong Kong church bodies and the Hong Kong Government, for their hospitality and for arranging programmes of visits for us.

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This report concerns the effect of British nationality law on the people of Hong Kong as Britain relinquishes responsibility for the territory. It therefore concentrates on the position and problems of British nationals, and in particular British nationals without any other nationality, not because they are more important or more deserving of concern than other groups, but because they are people for whom Britain has a clear and unequivocal responsibility to provide a secure and effective nationality status.

The report describes the inevitable insecurity and uncertainty surrounding the imminent return of Hong Kong to China (Chapter 1). It shows how this is compounded by Britain's complicated and discriminatory nationality laws (Chapter 2). It draws particular attention to the position of the non-Chinese minority groups in Hong Kong whose British nationality leaves them effectively stateless (Chapter 3). It also points out the vulnerability of some non-British nationals, particularly the refugees from Indo-China, who are now living under British protection in Hong Kong (Chapter 4).

It recommends action which Britain could and should take to provide some security for all these groups:

- by providing an avenue to British citizenship for the small number of British nationals who also have Chinese nationality, but who fear they could be at risk in the new Hong Kong;
- by granting full British citizenship, with the right of abode in Britain, to the few thousand non-Chinese British nationals in Hong Kong, who have no effective nationality;
- by helping to resolve the citizenship status of non-British nationals whose homes are in Hong Kong; and by taking urgent action to resettle, well before 1997, those Vietnamese refugees who have no legal status in Hong Kong either now or under the Agreement with China.

1

ONE COUNTRY, TWO SYSTEMS

In 1997, after 155 years of British rule, the British colony of Hong Kong returns to the People's Republic of China, under the terms of an Agreement between Britain and China signed in June 1985. The Agreement commits China to a unique arrangement whereby Hong Kong will become a Special Administrative Region whose economic, financial, administrative and legal autonomy is guaranteed for 50 years. It will thus be a capitalist enclave within a communist country: there will be 'one country, two systems'.

The Agreement specifies the people who will have the right to live in the new Hong Kong Special Administrative Region (SAR) after 1997. They will be: Chinese nationals born in Hong Kong, anyone who has been ordinarily resident in Hong Kong for at least seven years, and anyone else who had the 'right of abode only in Hong Kong' before it returned to China.[1] But the question of nationality was apparently too difficult to be resolved in the Agreement itself, and is therefore dealt with in an Exchange of Memoranda which accompanies the Agreement, but is not part of it.

Over 3 million of the present 5½ million residents of Hong Kong have British nationality: they are British Dependent Territories citizens (BDTCs) (most of the remainder are immigrants from China). Britain's memorandum commits the UK to abolishing British Dependent Territories citizenship for people from Hong Kong and replacing it with an 'appropriate status' (that of British National (Overseas)) which cannot be passed on to children born after 1997. China's memorandum declares that 'all Hong Kong Chinese compatriots (i.e. people who are ethnically Chinese), whether they are holders of British Dependent Territories citizens' Passports or not, are Chinese nationals'; but that 'taking account of the historical background of Hong Kong and its realities', those people will be permitted 'to use travel documents issued by the government of the UK for the purpose of travelling to other states and regions'.[2] (Appendix 2 gives details of

the Chinese nationality law and the proposed new British status f[illegible] Hong Kong people.)

The present population of Hong Kong consists of approximately

- 3.2 million **British Dependent Territories citizens** who will also be **Chinese nationals**
- about 10,000 people who are **British Dependent Territories citizens** only
- 2 million people who will be **Chinese nationals** only
- 17,000 **British citizens** (with right of abode in Britain
- 150,000 **foreign nationals** (i.e. not British or Chinese)
- 11,000 **stateless people**, largely refugees from Indo-China

The Agreement has been hailed by all parties in the British Parliament as a diplomatic triumph, which solves the problem that the lease on 92% of the territory of Hong Kong runs out in 1997 by preserving the way of life and capitalist ethos of Hong Kong within China. An Assessment Office was set up to test feelings in Hong Kong: it reported 'that most of the people of Hong Kong find the draft agreement acceptable'.[3] However, the Assessment team found that reaction to the proposed nationality changes was much less positive than to the Agreement as a whole: 'most of those who commented on the Exchange of Memoranda did so in adverse or critical terms . . . There was a widely-shared hope that the British government and Parliament may find a way of providing further assurances for BDTCs in the coming years'.[4]

Measures to implement the Agreement in preparation for the handover have already started. Hong Kong has to have some form of self-government which will ensure that it can be an autonomous part of mainland China after 1997. In 1984, therefore, the elected membership of District Boards was increased and in 1985 there were the first elections, though indirect, to the Legislative Council. The development of the democratic process will be reviewed in 1987. A committee has begun to meet to draft the Basic Law, the constitution of Hong Kong after 1997, which will guarantee 'one country, two systems' for 50 years. The 59-strong committee, chosen by Peking, includes 23 Hong Kong members. A Joint Liaison Group of British and Chinese officials with diplomatic status has also been formed to oversee the implementation of the Agreement.

On 17 October 1985, in a draft Order in Council made under the Hong Kong Act, the British government announced its nationality proposals for the 3¼ million British Dependent Territories citizens (BDTCs) in Hong Kong.[5] BDTC status for people from Hong Kong will

cease on 1 July 1997; all BDTCs with passports before that date will be able to register and become British Nationals (Overseas). The Order also contains 'provisions for reducing statelessness': they consist of the offer of British Overseas citizenship to Hong Kong BDTCs and their children and grandchildren who would otherwise be stateless. British Overseas citizenship and British National (Overseas) status are merely different names for the same thing: they both describe a British nationality which carries no right of abode anywhere, cannot be passed on to children, and is little more than a travel document facility.

These proposals take no account of the widespread criticism of the nationality proposals reported by the Assessment team; they provide none of the 'further assurances' the assessors hoped for to deal with an insecurity which is the product of the combination of Britain's unique citizenship laws and Hong Kong's unique colonial status.

ONE COUNTRY, SIX CITIZENSHIPS

Citizenship of a country implies many interrelated rights and obligations, but it is usually assumed that the most basic of those rights is the right of abode in the country of one's citizenship. However, this is not true for all those who hold forms of British citizenship: Britain is the only country in the world which does not allow right of entry to its own nationals. With the creation of British National (Overseas) status for people in Hong Kong, there will now be six forms of British nationality of which only one, British citizenship, allows its holders entry to Britain.

This process of division began in 1962, when British immigration law began to exclude some British nationals and Commonwealth citizens from free entry to Britain; it was formalised in 1981 when the new British Nationality Act gave British nationals without the right of entry to Britain new names (British Overseas citizens, British Dependent Territories citizens) which made it clear that they should not expect to be able to enter the country of their citizenship. (The Act also retained the old statuses of British Protected Person and British subject for other groups of British nationals without right of entry.)

During the debates on the Nationality Act, much of the pressure from British people in Hong Kong was not for the right of abode in the UK which they had lost in 1962, but for a separate citizenship which

acknowledged their unique identity as Hong Kong British. The Hong Kong Observers, one of the oldest of the Hong Kong pressure groups, wrote that such a citizenship would 'further a sense of belonging. We may be Chinese but we belong to Hong Kong . . . the people of Hong Kong must think about their future and what they want, not in terms of security for their investments alone, but in terms of a place to bring up a family, where they would like to be buried'.[6]

Instead, Hong Kong found itself lumped with such unlikely partners as the Falkland Islands, St Helena and British Antarctica in the 'catch-all' category of British Dependent Territories citizenship which included the citizens of all British colonial territories which had not yet gained independence.

Yet the crucial fact about Hong Kong was that it could never become independent.

THE FUTURE OF HONG KONG

'Members of the United Nations which have . . . responsibility for the administration of territories whose people have not yet attained a full measure of self-government recognise the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost . . . the well-being of the inhabitants'

— Article 73, Chapter XI, United Nations Charter

'Self-determination in the strict sense has no part to play in determining Hong Kong's future' — Ivor Stanbrook MP.[7]

Unlike other British colonies, Hong Kong is not moving from colonialism to self-government: one member of the Executive Council said to us, 'We have been a British colony. Are we now to become a colony of China?' The young professionals, the university graduates, the senior civil servants, the members of the Executive and Legislative Councils and the grassroots activists who are now prominent in Hong Kong are exactly the people who, in the normal process of decolonisation, would be looking forward to running their own country: they might differ fundamentally about how that country ought to be run, but its future would be their ultimate responsibility.

This is not the case for the people of Hong Kong: their future has been decided for them in a deal between two great powers, who, although they are ideologically opposed, have in common certain

diplomatic, trading and technological aims. Their status as outsiders in the decisions about their future and their status as outsiders in British nationality law are the two pincers between which many people in the territory feel themselves caught.

Few people in Hong Kong argue with the reality of a return to Chinese sovereignty in 1997; many positively welcome it as an assertion of their Chinese, non-colonial identity and an opportunity for change and movement away from being a western outpost to becoming an integral, though distinctive, part of China. Yet a large number of people to whom we spoke, whatever their political beliefs and position, distrust the process by which their future was decided and are looking for some firm base upon which to assert and protect the interests of Hong Kong.

Hong Kong took no part in the negotiations about its future; there is therefore understandably some cynicism about how hard Britain, which urgently wanted an agreement, was prepared to fight for the best interests of Hong Kong, which had to live with the results of that agreement. Nor was there, in reality, much choice about whether to accept what was negotiated. The White Paper which set out the terms of the Agreement stated candidly: 'Her Majesty's Government have a duty to make it clear beyond any possibility of misunderstanding the alternative to acceptance of the agreement . . . In their view, there is no possibility of an amended agreement. The alternative to acceptance of the present agreement is to have no agreement. In this case, the Chinese government has made it plain that negotiations could not be re-opened and that it would publish its own plan for Hong Kong'.[8] This was the background to the Assessment team's finding that the Agreement was generally 'acceptable' to Hong Kong.

There is a similar realism about Britain's role as guarantor of the Agreement. Already there are signs that promises made in Parliament cannot wholly be kept: the Foreign Secretary assured the House several times in the debates about Hong Kong's future that the Joint Liaison Group (set up to oversee the implementation of the Agreement) would certainly 'include officials from the Hong Kong government'[9]: yet when the group was set up, China flatly refused Hong Kong participation and the one Hong Kong member, Eric Ho, had hurriedly to be made a British citizen before he could participate. Sir Geoffrey Howe also firmly promised that self-government for Hong Kong would 'follow a period of democratic development'[10]: following the combined opposition of the People's Republic of China and of vested interests in Hong Kong, direct representative

democracy now looks much less certain — indeed one former Hong Kong senior civil servant has publicly claimed that it was simply a ruse to persuade Parliament to pass the Agreement.[11] It is therefore scarcely surprising that there is an air of nervousness in Hong Kong, and that the national sport of China-watching has become even more popular, so that when Peking's representatives are reported as blocking discussion on the Basic Law Drafting Committee, commenting on the possibility of ending jury trials, or implying new forms of censorship, these accounts are picked up and headlined in many English language newspapers.

This nervousness is exacerbated by the scale of change demanded of Hong Kong. Hong Kong is not like a twentieth-century social democracy: it is much more like a nineteenth-century newly-industrialised city, composed largely of immigrants and young people (70% of the population is under 35; only half of the people were born there), with all the energy and individual will to succeed which that implies. It is a society based firmly on the profit motive and the law of supply and demand (even mercy flights out of Saigon for Hong Kong people in 1975 had to be seen to break even at $HK700 a time).

There are many problems to be resolved in the short period before Hong Kong returns to China. A society which has grown up in the artificial environment of a paternalistic colonial structure geared to providing the best possible and most flexible environment for capitalism has to establish and make its own the institutions which will allow it genuine autonomy within a monolithic communist state. 'One country two systems' sets the unrestrained capitalism of Hong Kong in permanent tension with the state socialism of China, and business confidence will be quick to withdraw from Hong Kong if there are any signs that that balance is not finely held. In addition, there will be demands for change from among the many people who want independence from colonialism and who are impatient to improve social conditions and begin to redistribute wealth in Hong Kong. .Yet those people have no experience in political skills and are faced with powerful entrenched opposition from the existing power structures in Hong Kong and also from the Chinese authorities, who appear to be unwilling to see fully representative democracy in Hong Kong, on the grounds that it could increase instability and might imply a challenge to the one-party system of the mainland. (The 23 Hong Kong members of the Basic Law Drafting Committee, chosen by China, almost all represent right-wing business interests.)

It is because of this uncertainty, and because there are no clear

guarantees, that the question of nationality in Hong Kong is so sensitive. But Britain's insensitive and pathological fear of non-white immigration, the panic button which is pressed every time the rights and responsibilities of non-white British nationals are discussed, is in fact adding to the insecurity which could threaten the future of the Agreement and of Hong Kong.

2

SECOND-CLASS CITIZENS

"To be a second-class citizen means to be needed when of any use, but to be discarded when that usefulness has expired."

— Donald Yap of the Heung Yee Kuk, the New Territories District Board[12]

The feelings of the Chinese population of Hong Kong about British nationality are not always clear and unambiguous. This is scarcely surprising: Britishness is a colonial status, but it is also part of the identity people have grown up with. It represents quite different things to the many different groups within Hong Kong: colonial civil servants, middle-class professionals, working-class street traders, elderly people who fled from the Communist revolution, young people who are eager for change and reform. Yet within all these groups there is one common feeling: an underlying sense of bitterness and anger at the progressive devaluation of the citizenship Hong Kong people were born with or chose to acquire. 'In 1962, we had a citizenship which was the same as that of the Queen, or Mrs Thatcher . . . we did not change, but our citizenship did'.[13]

It is not the practical effects but the emotional experience of rejection and of loss of identity which are most often stressed: 'How can they take away my birthright?'; 'I served the British for thirty years. They gave me a knighthood . . . now, I am nothing.'[14] Some people believe that their allegiance and loyalty have been abused — the Hong Kong Association spoke of a 'deep and genuine identification of Hong Kong people with British legislation, customs and culture'[15]; others who survived the Japanese occupation, spied for the British, held public office or were honoured by the Crown feel especially resentful (T.S. Lo, a member of the Executive Council, resigned in protest after the Agreement). But it is not only those who identified with and benefited from the colonial system who feel cheated: even people in grassroots organisations who have been

active critics of colonialism and who feel prouder of their Chinese identity than of their colonial British one are insulted that Britain should feel the need to lock them in to Hong Kong and deny them any freedom of choice.

The official response to these criticisms is that nothing has changed — that Hong Kong people lost the right to live in Britain in 1962, and the changes in 1983 and 1985 were changes in name only. For most people in Hong Kong, right of abode in Britain after 1962 was not an issue: they belonged to Hong Kong. But the second-class status they were given after 1983 not only offended their sense of pride and identity, it also signalled an abandonment of British responsibility for its own nationals, a surreptitious detachment of Hong Kong people from Britain. It is indeed widely believed in Hong Kong that the Nationality Act was passed, and its likely conclusions deliberately kept quiet in Hong Kong, mainly to remove any obstacles to return to China. Hong Kong people did not necessarily want right of abode in Britain: but they did want a meaningful citizenship which identified either their continuing connection with Britain, or their separate identity as Hong Kong British. This would both have increased security in Hong Kong and raised the stakes in the negotiations with China — as the South China Morning Post noted, it 'might have left Peking more deeply aware that not all the cards were on its side'.[16]

This did not happen and Hong Kong British people will now be left with the meaningless and unclear status of British Nationals (Overseas) (which China regards only as a temporary travel document facility). For some people, this denies their identity and sense of belonging; for many others, it gives no basis on which to argue the autonomy and uniqueness of Hong Kong within China.

Yet it is difficult to see how at this stage it would be possible, even if there were the political will, to grant full British citizenship to all British nationals in Hong Kong without jeopardising the Agreement with China. As far as China was concerned, the Agreement was negotiated on behalf of five and a half million Chinese nationals in Hong Kong, three million of whom were to be allowed to retain a transitional British status. If Britain were now, after the signing of the Agreement, to seek to change the status of its nationals there so that there were three million British citizens in Hong Kong, owing allegiance only to Britain (as China does not allow dual nationality), this would almost certainly be seen as an attempt to retain British sovereignty over the territory, and would mean that even those who would rather be Chinese would automatically lose their Chinese nationality.

Even to give people a right to register as full British citizens would cast suspicion both on Britain's motives and on the motives of those who elected to exercise it. There are also many people in Hong Kong who feel that the offer of British citizenship would be a diversion, which would prevent some Hong Kong people (particularly the relatively well-off middle classes) from working for a new Hong Kong identity as part of China, which would benefit all Hong Kong's people, including those who are not British nationals and who have no other options.

The different perspectives within Hong Kong and the political realities in China and Britain all prevent any simple, sweeping rewriting of Hong Kong's recent nationality history. Yet this does not absolve Britain, as the colonial power and the country of citizenship, from looking at ways of adjusting British nationality law so as to provide some sort of security for some of the people of Hong Kong.

AN INSURANCE POLICY

"If you go on a plane flight and you take out insurance, it doesn't mean you're planning to commit suicide."

— senior member of the Legislative Council

The widespread concern about nationality does not mean that people want to leave Hong Kong, or that, even if they did, they would choose to go to Britain. Quite the reverse: people want to stay in the country which may have been their home for generations; all they ask is that Britain, the country of their citizenship, should give them some sort of safety net, or insurance policy, which will provide them with the security they need to feel confident of planning their own and their children's future in Hong Kong. The Assessment team recorded one group of respondents as saying 'We do not care what happens to Hong Kong for our sake. However, we care for our children'[17]; during our visit, we lost count of the number of times that was said to us.

This in no way implies a belief that China is inherently untrustworthy – if anything, it is Britain whose bona fides is most questioned in Hong Kong. However, it is an inevitable consequence of the changes required in Hong Kong and the inability of anyone to guarantee the future that many people who have no desire at all to leave Hong Kong will nevertheless seek some personal insurance for themselves and their immediate families, 'just in case'.

People who can do so are writing their own insurance policies;

many young professionals are halting their careers for five or six years to emigrate, usually to Canada or the United States, establish rights of residence or citizenship and then return to Hong Kong. T.S. Lo, the Executive Councillor who resigned, has set up an agency to help people emigrate, financed with his own money, and claims that six or seven people a day contact him, although he does not publicly advertise. The rich have options for settlement all over the world: while we were in Hong Kong an advertisement in the South China Morning Post offered a book for $HK295 which described 'How to get a second passport without leaving Hong Kong'. Fears exist, unscrupulous people will exploit them, and the poor will be unable to allay them.

But it is Britain, the country which colonised Hong Kong and which has had responsibility for it for over 150 years, which should be taking out insurance for any Hong Kong people who need it. Sir Geoffrey Howe, in his first speech on the Hong Kong Bill, said that Hong Kong's position was difficult because it was 'sui generis'[18]; the preamble to the agreement said that 'This is not a choice which Her Majesty's Government have sought to impose on the people of Hong Kong. It is a choice imposed by the facts of Hong Kong's history'.[19] But it was Britain which wrote Hong Kong's history: Hong Kong is what it is today because it has been a part of the British Empire, and not of mainland China, since 1842. To act as though it had created itself, and Britain had accidentally stumbled upon it and were helping it sort out its convoluted and self-made problems, is a breathtaking abdication of responsibility for the future security of British nationals overseas.

It contrasts vividly with the provisions made for the inhabitants of other British territories whose relationships with a third country mean that they can never achieve independence. Gibraltarians gained the right to register as full British citizens in the 1981 British Nationality Act; Falkland Islanders had their own special Nationality Act passed in early 1983 to make them all, retrospectively, full British citizens. As a result, both groups can have the right of abode in Britain. Kenneth Chong, secretary of the Hong Kong Belongers Association, contrasting this with the failure of Hong Kong's representations for special treatment, pointed out that it 'exudes the stink of apartheid'.[20]

The most immediate comparison for Hong Kong people is, however, much nearer home. Just 40 miles across the South China Sea is the Portuguese colony of Macau which is also negotiating its return to China. But all those born or naturalised in Macau have full Portuguese citizenship, not a second-class status. This not only means

that they have free entry to Portugal; it also means that after 1991, when Portugal is a full member of the European Community, Portuguese nationals from Macau will have free right of entry for work into Britain. Thus, at exactly the time when some people in Hong Kong may be apprehensive about the approach of 1997, they will be able to look across the bay to 80,000 people who have a right to enter Britain which is denied to Britain's own nationals in Hong Kong. The Hong Kong and British governments are acutely aware of this irony, yet it does not make either of them argue for a more secure status for British nationals in Hong Kong. Instead, the British government, at the insistence of the Hong Kong government, has been pressing the EEC to use a loophole in the Treaty of Rome to ensure that only Portuguese nationals of European origin have free movement rights in Europe. The Far Eastern Economic review reported the Portuguese authorities' scathing condemnation of 'a hysteria worthy of Enoch Powell . . . Britain should stop criticising others who fail to follow their dismal example of devaluing their own passports'.[21]

The barrier to acceptance of a residual moral responsibility for people who have lived under British rule and whose future has been negotiated over their heads is the same barrier which has for over twenty years obstructed justice and morality in British nationality and immigration law: the fear of non-white immigration to Britain. It is not merely a question of numbers, but of colour. Millions of other people from overseas have an absolute right to enter Britain: between three and nine million Commonwealth citizens, from Australia, Canada and New Zealand; over 200 million nationals of EEC countries; about a million white South Africans. Almost all the people concerned are white; their right to enter Britain is unquestioned and does not lead to any public fears of being 'swamped' by immigrants. Yet the fact that there are three million British people of Chinese origin in Hong Kong is used to guillotine any debate about the nature of Britain's continuing responsibility for its nationals there.

The immigration fear accounts for much of the lack of leverage Hong Kong can exert in London. A Legislative Councillor ruefully remarked: 'If one white British man were being forced against his will to live under communism, it would be front-page news; if it were one man and his dog, there would be banner headlines and a public protest'.[22] The natural anti-communist, fiercely nationalist lobby is also profoundly racist and anti-immigrant (while the natural anti-racist, immigration-reform constituency, on the other hand, is profoundly unsympathetic to the ethos of Hong Kong and particularly of those

people who are most likely to want to leave). Only the Financial Times has argued for a positive attitude to the remote possibility of Hong Kong people needing to come here, on the grounds that it would revitalise our economy, produce a better age balance in our population, and potentially make Britian the workshop of the EEC.[23]

There is, however, one positive action which Britain could take to provide some form of safety net for its nationals in Hong Kong. The 1981 British Nationality Act already contains a provision in section 4(5) for British Dependent Territories citizens who have worked in a paid or unpaid capacity for the government to register, at the discretion of the Home Secretary, as full British citizens. The Home Secretary has to be satisfied that the 'special circumstances of the applicant's case' merit such registration. This provision is meant to be used only rarely but provides some degree of security for people whose positions in colonial service in Hong Kong might render them vulnerable after 1997. At present, it appears that no-one is being granted British citizenship under this section, in case it increases insecurity and causes dissension in the civil service. It is merely being held in reserve in case it is needed.

But civil servants are not the only people who could possibly be at risk in the period of unprecedented change facing Hong Kong: some of the grassroots leaders who are eager for change, or trade union leaders involved in organising strikes, could conceivably make themselves very unpopular with the local communist cadres or with Peking before 1997. Church leaders are confident that there will be religious freedom; but some of their members feel the need for a safety net in case this proves not to be the case.

The existing provision allowing some civil servants to register at discretion should therefore be extended to other British nationals in Hong Kong, and the criteria for granting citizenship in such cases should be clearly set out. There should be a right of appeal against its refusal (JCWI has for many years argued for a right of appeal against refusal of citizenship in all cases).

This should have little practical effect — if the British government believes its own public statements to the people of Hong Kong, who are constantly assured that the Agreement is watertight and trust in China is absolute, such a provision would be a blank cheque which would never need to be honoured. But it would be of great symbolic importance: it would signal to Peking that Britain was retaining a watching brief on its nationals in the new Special Administrative Region of Hong Kong. Perhaps more importantly, it would signal to

British nationals in Hong Kong and to people in Britain the acceptance of a residual moral responsibility for people in Hong Kong. Although it would not restore the citizenship rights removed from Hong Kong people, it would be the first occasion since 1962 when Britain's nationality or immigration law had relaxed and not tightened for non-white British nationals.

The discouraging of Hong Kong students, and the difficulties experienced by people who want to set up businesses or rejoin their relatives in Britain have all caused great ill-feeling in Hong Kong. British nationality law is seen as part of this racially discriminatory, chauvinist package: Professor Daffydd Evans of Hong Kong University commented that 'The Empire has gone and Britain has retreated behind its own shoreline. It is now treating the last vestiges of the Empire as inconvenient appendages that can be dealt with in this way . . . Little England has shrunk again'[24].

British nationality law has not only added to the insecurity of some British nationals in Hong Kong: it has also left a legacy of bitterness and deep suspicion which could well harm Britain's own longterm diplomatic and trading interests in the Far East.

We therefore recommend that, in consultation with people in Hong Kong, the provision for government servants to register as British citizens in "special circumstances" on a case by case basis should be extended to other British Dependent Territories citizens in Hong Kong. There should be clearly specified criteria and a right of appeal against refusal.

3

THE MINORITIES

"We want a home, we had a home, will we have a home now?"

— an Indian businessman, whose family has been in Hong Kong for four generations

There are about 10,000 British Dependent Territories citizens in Hong Kong who are not ethnically Chinese and who are therefore, unlike the vast majority of BDTCs in Hong Kong, not entitled to Chinese nationality in addition to their proposed British National (Overseas) status — China's memorandum on nationality gives Chinese nationality only to 'Hong Kong *Chinese* compatriots'[25]. Nor will their children born in Hong Kong after 1997 be able to acquire Chinese nationality at birth, as the nationality law of China provides that only those born to a Chinese national parent automatically become Chinese[26].

Non-Chinese British nationals in Hong Kong and their children will therefore rely only on their British nationality. But that nationality is not an effective citizenship, as it carries with it no right of abode in the country which has granted it. They will be dependent for a place to live on China, a country of which they are not nationals and which has no ultimate responsibility for them.

The non-Chinese minority includes many different groups. About 6,000 of them are of Indian origin. Some, mainly Dawoodi Bohra Muslims, settled in Hong Kong in the mid-nineteenth century as merchants and traders (one family arrived with the British in 1842 and set up the first ferry service from Hong Kong island to the mainland). Others are Parsees, whose families have distinguished records of public service and municipal generosity. Others are Sindhis, Hindus who fled from Pakistan at Partition with little more than they stood up in. By no means all the Indian community are rich businessmen: there are Sikhs who are policemen, nightwatchmen and soldiers and who work in factories or on boats, and there are clerks and junior civil servants.

Nor are Indians the only minority group: there are about 2,[illegible] Portuguese and other Europeans, who have lived outside their forefathers' country for too long to be able to claim any other nationality; a few hundred Eurasians with European mothers, or whose European fathers cannot be shown to have married their Chinese mothers; Malaysians; and a few Hong Kong-born Indo-Chinese. Most of them are in clerical and service occupations.

The minorities share the bitterness and anger of many of the majority community: 'I have lived all my life under British rule, in India and here in Hong Kong . . . what have I done wrong?'[27], but their circumstances and history intensify their insecurity.

Firstly, by definition, they are not of Chinese origin and therefore cannot be expected to share the positive feelings of many Chinese in Hong Kong about return to China. They came to Hong Kong because it was British, not because it was Chinese. In the words of the petition of the Council of Hongkong Indian Associations, 'The ethnic Indians came, stayed and remained of their own free choice. They chose Hong Kong because Hong Kong was a part of the British Empire or Commonwealth, because they had faith in the laws and the system of government of Great Britain and because they chose to give or to continue their allegiance to Great Britain'[28].

Many of the Indian community not only chose to go to Hong Kong, but also chose to renounce their Indian nationality and become British. During the 1950s, following the advice of the Indian High Commissioner that they should normally seek the citizenship of the country which was their home, many registered or naturalised to become British because, as the Indians' Petition said, each individual 'thought he would be secure in being a member of that community whose way of life he had adopted, whose laws and systems he respected, whose institutions he revered and to whom he deliberately gave his allegiance'[29]. They now feel that they have been defrauded, that they bought a pig in a poke, a citizenship which then gave them free access to the country which offered it, but which has now been devalued. Those who are businessmen, for whom good faith in deals is vital, see citizenship as a bargain struck between a state, which demands allegiance, and a citizen, who demands rights; they have faithfully kept their side of the bargain but their state has unilaterally reneged on its side. 'We consider that no Acts of Parliament should have the power to strip us of this right (of abode)'[30].

Many in the minority communities have already experienced insecurity and homelessness: some have lost their homes and

possessions twice already. Some Sindhis who abandoned everything when they fled from Pakistan went to Shanghai, which the Chinese Communist leaders promised would remain a free port; when that promise was broken they came to Hong Kong and began again. Others, who went straight to Hong Kong, lost everything during the Japanese occupation; promised war reparations and insurance payments were not made and they had to borrow money to start again. There are also a number of East African Asians in Hong Kong, people who have seen the results of Britain's refusal to honour pledges to its citizens in Uganda ('I do not want the same fate to happen to me and my family under the new government in Hong Kong'[31]). Such people have vivid memories of exile, and will not risk it happening to their children.

Some non-Chinese British nationals are elderly people who were prisoners of war or internees under the Japanese and who simply want security for their old age. One man, born in India while his father was in the Indian Civil Service and later permanently disabled as a result of his imprisonment in Changi jail, served in military intelligence in Malaysia and Hong Kong: 'I cannot find any good words to say about British bureaucrats as they . . . deny me my citizenship after I have given most of my life in the service of the Crown'[32].

Many outside the business community share another distinctive characteristic: they often identified very closely with the colonial power and indeed were deliberately used in a buffer role between the expatriate British administrators and the local Chinese population. The ex-president of the Sikh gurdwara believes that 'half the Sikh community in Hong Kong are descendants of policemen and army contingents brought out by the British'[33].

Most Eurasians, Malays and some Indians, like their fathers and grandfathers before them, are junior clerical and public servants. They are the people potentially most at risk in the new Hong Kong. Sinisation of the civil service is long overdue and entirely right, but it means that non-Chinese public servants feel that their jobs, and the jobs they expected their children to follow them into, are at risk as promotions and vacant posts increasingly go to Chinese colleagues. The Agreement confirms that no-one will lose a job in the public sector and that 'other foreign nationals *may* (our italics) also be employed to serve as advisers or hold certain public posts in government departments of the Hong Kong Special Administrative Region'[34] (this excludes appointments to heads of department and

some particularly sensitive deputy heads of department). It is cl[illegible] that the norm will be a Chinese civil service, though exceptions will be allowed. This is hardly surprising: most countries, including Britain, have a citizenship qualification for those in public service.

The minorities also fear that they will face other forms of conscious or unconscious discrimination as Hong Kong becomes more Chinese and less Western. A small number have a genuine fear of persecution or second-class status: one wrote 'Things are changing mood-wise extremely rapidly in Hong Kong especially with the formation of the basic law Consultative Committee. There is beginning a state of estrangement and in my case hostility towards Indians. We implore your organisation to help us'[35]. Others merely note the inevitable changes – compulsory Chinese language in the civil service, legislature and courts, the increased visibility of China's spokespeople in Hong Kong – and feel that they will be aliens in their own country.

It is of course right and inevitable that Hong Kong should see its future as part of China and explore a new identity based on that vision. It is also likely that in that process there may be hostility to people who are not Chinese and are particularly identified with the colonial regime which is coming to an end. Those people are in Hong Kong only because it is a British colony and therefore ought to be able to expect protection from the colonial power.

STATELESS BRITISH

But the most important and critical difference between Chinese and non-Chinese BDTCs is their citizenship rights. Chinese BDTCs who become BN(O)s by 1997 have a genuine citizenship, that of China, which guarantees them the right to live in the country of their citizenship. Non-Chinese BDTCs do not. They will be in exactly the same position as British Asians in East Africa, who were deprived of the right to enter Britain in 1968 and had nowhere to go when the regime in their adopted country changed and they faced expulsion. Britain's treatment of those British nationals was condemned by the European Court of Human Rights as 'inhuman and degrading'.

Some of those affected are rich enough to be able to live in any other country in the world. They do not want to, as Hong Kong is their family home, but some of them feel that Britain's intransigence leaves them no option. As the South China Morning Post said, Britain is giving

them a 'clear message . . . migrate elsewhere to get yourself a real passport'[36]. However, many in the minority communities do not have the option of escape: people like a widowed mother of Persian descent and her two daughters, or disillusioned Eurasian clerks whose mothers were abandoned by their British fathers and who now feel abandoned by Britain. One Goan Christian wrote: 'Many are too pessimistic and in a state of stunned apathy to write and I hope you will keep this in mind'[37]. The feelings of many such people were summed up in a letter from one of them:

"Other governments (such as that of India) have held out lifelines to those of its nationals wishing to depart Hong Kong in 1997; that of Britain has slammed the door in the faces of its loyal subjects. Much as I despise the categorising of the people of Hong Kong in this way, where once we looked upon ourselves simply as British subjects belonging to a British Crown Colony called Hong Kong, at least those who can claim to be ethnically Chinese are guaranteed papers, an identity, after 1997. The rest of us — and we do not number more than a few thousand — whose families have lived and worked here for generations, will fall into a grey area, belonging nowhere and merely tolerated in the one place we considered our home. We will have no avenue of escape, because the country to which we gave our allegiance is not prepared to recognise us or accord us any rights, thus condemning us to a life of spiritual imprisonment, within the bounds of a territory formerly our home, under a political system we have been taught to consider alien. And what heinous crime deserves such punishment? That of being born and raised in a British Crown Colony, to families who considered themselves British and who educated us accordingly. Is this British justice?"[38]

A great deal has been made, in debates, statements and in the draft Order in Council, of the British government's assurances that no-one will be left stateless as a result of the Agreement and that Britain is honouring obligations under the International Convention on the Reduction of Statelessness. In one sense it is true. All British nationals will have a status: BDTCs with British passports by 1997 will become BN(O)s; other BDTCs who would otherwise be stateless will become British Overseas citizens (BOC)s; children born to non-Chinese BN(O)s after 1997 (who will not acquire Chinese nationality at birth because they are not ethnically Chinese) will also become British Overseas citizens; third generation children who would otherwise be stateless will be able to register as British Overseas citizens.

But these provisions only fulfil the International Convent[illegible] because those who drafted it naively assumed that a country which granted citizenship would also grant other rights, specifically the right of abode. For statelessness is not avoided by giving people passports and names. If it were that easy, there would be no stateless people in the world. Real statelessness is avoided by giving people an effective nationality with rights, responsibilities and above all a place to belong. Neither British National (Overseas) nor British Overseas citizenship carries any right of abode or any right to pass citizenship on to children. They are merely travel documents: the Chinese memorandum on nationality appended to the Agreement does not even call British National (Overseas) a status; it makes it clear that it is merely a temporary travel document facility which it is allowing to a small group of Chinese nationals. If it were a genuine citizenship, Chinese nationals would not be able to hold it, as China does not allow dual nationality.

The practical problems British Nationals (Overseas) will face make the precariousness of their status very clear. Their passports may not on their own be enough to secure them entry to other countries: they will not show any right of abode, as Britain has no power to promise that after 1997, so they will have to carry their Chinese-issued identity cards if they need to prove to foreign authorities that they have the right to live somewhere. Their children born abroad will have no right of abode anywhere, unless and until they have lived for seven years in Hong Kong, when the Chinese will grant them right of abode there under the Agreement.

It is only Britain which seeks to elevate this vestigial and transitional status into a nationality as a defence against accusations of statelessness. In reality, giving people passports and names is about as effective a remedy against statelessness as airlifting luncheon vouchers to Ethiopia.

THE OBJECTIONS

The British authorities have produced many arguments against granting effective citizenship to minorities in Hong Kong.

Firstly, it is argued that they should not expect right of abode in Britain, as they have never had that right since 1962. This ignores the fact that their British nationality at least gave them the right to live in a country for which Britain was responsible, and to pass on that status to

ir children. This will no longer be the case after 1997.

Secondly, they are told they do have a right of abode, in Hong Kong, guaranteed by China under a legally binding international agreement. The Agreement does indeed give the right of abode in Hong Kong to foreign nationals who have lived there more than seven years and to others with 'right of abode only in Hong Kong' (although this is a somewhat dubious category, as there is no such status in Hong Kong's immigration ordinance). But British politicians have been quite candid about their inability to enforce those promises. The Foreign Secretary told Parliament that 'The success of such an agreement can never . . . be absolutely guaranteed'[39]; the Shadow Foreign Secretary amplified this: 'if undertakings are given there is little effective sanction that a United Kingdom government could invoke against such a breach'[40]. This disarming honesty is hardly encouraging to people whose only home depends upon that Agreement being honoured to the letter.

Nor is the assurance give by Ministers that if BN(O)s and BOCs 'came under pressure to leave Hong Kong and had nowhere else to go, we would expect that the Government of the day would consider sympathetically whether to admit them, on a case by case basis, in the light of their circumstances'[41]. It is neither just nor responsible to tell British nationals that if they become destitute or are evicted from their homes, Britain may agree to take them in. It condemns many people who cannot or do not want to emigrate elsewhere to years of unnecessary anxiety, while people who are able to leave now will not wait for that contingency: 'How can they expect our community to live with the uncertainty hanging over us for the next twelve years?' [42]. It will not benefit Hong Kong if many Indian businessmen feel compelled to leave; nor will it benefit Britain if they are forced to come as penniless refugees rather than successful entrepreneurs.

It is the hypocrisy and complacency of the British response to their predicament which most infuriates those in Hong Kong. They are constantly told that Ministers are "confident" of their future in Hong Kong: as the Parsees said in reply to such a letter from the Prime Minister's office 'It is easy for you to write that you do not envisage any problems in life for us here after 1/7/97. But no one can give such a guarantee'[43]. Members of Parliament who take up their case are reassured that their right to a home is guaranteed by the Agreement and that 'any breach of it would be a very serious matter indeed'[44]. People in Hong Kong, who would be the victims of such a breach, hardly need reminding of this, or of the fact that those who now give

such easy assurances would be powerless to prevent it.

Ministers have also argued that to grant an effective citizenship to non-Chinese BDTCs in Hong Kong would be racially discriminatory.

It is a peculiarly ironic twist in Britain's twisted citizenship and immigration laws that those who advocate special treatment for the minorities in Hong Kong should be accused of racial discrimination by a government which passed legislation to freeze into British nationality law the racial divisions of British immigration legislation. The ethnic minority communities in Hong Kong are in their present position precisely because they are caught between two racially discriminatory nationality laws: a Chinese law which says that only those of Chinese race are automatically citizens of China, and a British law which created five second-class citizenships for non-white British nationals. That law was morally indefensible and has indeed left many Chinese BDTCS in Hong Kong feeling that they have been sold out; but it would be doubly unjust if their situation were to be used as an excuse for failing to act to relieve the plight of an even more disadvantaged group.

But, precisely because citizenship issues in Hong Kong are so sensitive, many, particularly in the Hong Kong government, would argue that in order to preserve the unity and therefore the stability of Hong Kong, there should be no special concessions for any particular group; this would be resented and could set one group against another.

Yet immigration and nationality status have already created deep divisions in Hong Kong. There are some obvious divisions – between the 3¼ million British nationals, the 150,000 foreign nationals, the 2 million Chinese immigrants who are Chinese nationals but at present have only certificates of identity, and the 11,000 refugees from Indo-China who are effectively stateless and not even officially landed in Hong Kong. But even among those who are British nationals there are important divisions.

About 17,000 people already have full British citizenship and therefore the right of abode in Britain. In some cases, this is because they are expatriates from the UK; but in other cases they are people of mixed race, or people who went to live in Britain many years ago and acquired right of abode because of five years' residence and settlement in the UK. The acquisition of full British citizenship can appear quite arbitrary: Eurasians with British-born mothers are excluded, while those whose fathers were born in Britain are

cluded, provided they can document their parents' marriage. Even families are split – a British citizen who acquired right of abode by living in England would be able to transmit his citizenship, but not his right of abode, to his children born abroad – in one Hong Kong family, the father is a British citizen by residence in Britain, as is one child born while he was there, while his wife and other children (who are now adults) are BDTCs only.

Even those who can claim only BDTC status are divided. Many have another nationality by birth, residence or naturalisation abroad, like the professionals who regularly leave Hong Kong for this purpose. (The registration of Eric Ho, the only Hong Kong member of the Joint Liaison Group, ironically revealed that he was in fact a citizen of New Zealand already.) Many are married to foreign nationals – British civil servants or people they met while students abroad. Many have capital and income which makes them welcome in any of the preferred countries of migration (Canada, Australia, the USA) and have already bought property there as a downpayment. Many families have at least one member living abroad, and might be able to enter another country as dependent relatives. The Hong Kong civil servants, who are so reluctant to split Hong Kong on the minorities issues, have already negotiated their own concession — the possibility of registration as British citizens under section 4(5) of the British Nationality Act.

In Hong Kong, awareness of someone's nationality status or potential immigration prospects is like a sixth sense. It colours people's views of each other and the risks they are prepared to take in supporting the Agreement. Very often, people who voiced outspoken criticism or undiluted optimism were dismissed by others we spoke to on the grounds that 'He/she has a British husband/a Malaysian passport/a daughter in Canada'.

Thus, divisions already exist and are an accepted fact of life in Hong Kong. Right of abode in Britain for those with no other citizenship would merely add one small layer to those who already have secure status outside Hong Kong. Most of the Chinese people to whom we spoke recognised the unique insecurity of the minority groups. A leading churchman said 'The others have a pride in being Chinese, so they will not be alienated after 1997 . . . however the minorities have genuine problems . . . we have a moral obligation to do something about it'.[45]; another said that the Chinese would understand the position of people who were 'between two stools.'[46]

Grassroots community leaders who felt most positive about the return to China and the future of Hong Kong realised the need for special provision for other groups who could not be expected to share their enthusiasm. Others thought that, though there might be initial resentment, the majority community would accept the need for special treatment for the minorities. There were, of course, people who disagreed and who made it clear that they would feel their own exclusion from Britain even more bitterly if others were given favoured treatment. The Chinese newspaper, the Express, claimed that even to allow third generation minority children to register as British Overseas citizens was to show 'that the British government is taking a discriminatory attitude against Chinese BDTCs'.[47] Yet in general we were surprised by the generosity of those in responsible positions, committed to making the Agreement work, towards non-Chinese British nationals in Hong Kong. Their generosity made the British government's refusal to grant any real concessions appear all the more mean and petty.

The problems of the minorities in Hong Kong have to be seen in the context of Britain's racially discriminatory nationality and immigration laws, which have also left many Chinese British nationals in Hong Kong feeling bitter and angry. However, their legitimate grounds for resentment do not free Britain from the responsibility of making adequate provision for people who have not even the security of a real citizenship. It must be an absolute priority that the British invention of "one country, six citizenships" does not leave anyone with "one citizenship, no country".

The few thousand British nationals in Hong Kong who do not have another nationality and are effectively stateless should therefore be granted full British citizenship.

4

PEOPLE WHO ARE NOT BRITISH

This report is primarily concerned with the impact of British nationality law on the future of people in Hong Kong, and not on Britain's overall responsibility for the territory and its inhabitants. For that reason, it concentrates on those who now hold British nationality and whose future security could be enhanced by changes in nationality law. But British nationality and immigration policy also affects some of the non-British nationals whose only home is in Hong Kong.

About 2 million of Hong Kong's 5½ million people emigrated from China. Though theoretically recognised by China as Chinese nationals, they do not at present have any internationally recognised citizenship status and use their Hong Kong certificates of identity for travel as though they were stateless. Some of those recent immigrants wish to naturalise and become British (they would thus become British Dependent Territories citizens). But that process is much more difficult in Hong Kong than it is in Britain. The criteria for granting nationality in Hong Kong (length of residence, language and good character) are the same as those in Britain, and the Hong Kong authorities claim that they are operated in the same way as in the UK, and as laid down by the British Home Office. Yet, while only 9.4% of British naturalisation applications were refused in 1983,[48] over 50% of those applying in Hong Kong are rejected. In fact the proportion of refusals is even higher if those applying on the basis of marriage to a Hong Kong resident are excluded: since 1983, 1007 others have applied for British nationality, and only 237 have so far been granted it (some will, of course, still be under consideration).[49] We were told by senior civil servants who sit on the naturalisation board that the majority of people are refused on the 'good character' requirement, and by another informant that in Hong Kong it is necessary for applicants to prove why they want to be British, and not for the

authorities to show why they should not be. This policy excludes many Hong Kong residents from an effective nationality and leaves them as permanent second-class citizens in their home country. The criteria for naturalisation in Hong Kong should therefore be relaxed so as to operate in the same way as intended by Parliament and as carried out in Britain.

However, many Hong Kong Chinese do not want any form of British nationality: such a step would imply a rejection of their Chinese identity. Yet they do want Britain to help them secure a recognised nationality status in Hong Kong, which reflects the fact that they are nationals of China. It was therefore suggested that the Joint Liaison Group of British and Chinese officials should explore ways of making Chinese papers and travel documents available to those in Hong Kong who wish to use them during the transitional period, in the same way that British National (Overseas) passports will be available before 1997.

THE REFUGEES

There are at present nearly 11,000 refugees from Indo-China in refugee camps in Hong Kong. Some of them (the earlier arrivals) are in open camps, where they are allowed to work and to move about freely. Others (those who arrived after July 1982) are in closed camps, policed by the prison department. None of the refugees in open or closed camps are officially landed in Hong Kong: they therefore have no immigration status there and no right to live in Hong Kong under the Agreement with China. A majority of them (3/5 of those in open camps and the vast majority of those in closed camps) are ethnic Vietnamese, who are viewed with some hostility by ethnic Chinese.

The rate of resettlement from the camps has been falling – from over 37,000 in 1980 to only 1,843 in the first seven months of 1985. Britain in particular has recently taken little responsibility for resettlement from Hong Kong – only 88 refugees were accepted in 1984 (2.4% of those resettled) and only 4 in the first seven months of 1985. Though the British government has recently announced that it will accept 500 refugees, these are all close relatives of those already settled in Britain, not a new resettlement commitment. Resettlement to other countries is often of the best-qualified recent arrivals; there are therefore many people who have now lived in refugee camps for five years or more.

It is alarming that many of those in charge of refugee policy in Hong Kong assume that there will still be Vietnamese in camps there when Hong Kong returns to China in 1997. It was pointed out that under the terms of the Agreement, Hong Kong will retain its own immigration ordinance and that therefore the position of the refugees will be no less secure than it is at present. That is little consolation for people who have no legal basis for remaining in Hong Kong, whose ethnic origin makes them vulnerable to Chinese hostility and who know that the cost of their continued presence in Hong Kong is resented by other legal residents there, who sometimes themselves suffer appalling housing conditions or separation from close families in China.

The conditions in the closed camps in particular have been observed and criticised by British refugee agencies and visiting members of Parliament.[50] Refugees live in prison conditions, unable to make even minor decisions about their own lives, in camps which are designed to discourage others from fleeing to Hong Kong. Those conditions are outside the terms of reference of this report; but they provide additional compelling reasons for Britain to take a lead in resettling the refugees and clearing the camps well before 1997.

Hong Kong is a British colony, which Britain explictly exempted from its international obligations under the United Nations Convention and Protocol on Refugees. The British government thus has ultimate responsibility for any Vietnamese refugees who have not been resettled elsewhere and yet have no right to remain in Hong Kong when the territory ceases to be Britain's responsibility.

Britain should therefore

- **relax the criteria for naturalisation in Hong Kong so that the naturalisation process operates in the same way as it does in Britain.**
- **try to ensure that Chinese travel document facilities are available before 1997 for Chinese nationals who wish to use them**
- **take a lead in resettling Vietnamese refugees who have no immigration status in Hong Kong and whose right to stay there is not guaranteed under the Agreement**

APPENDIX 1

During our visit (21-31 July 1985) we met people from:

Anglican Diocese of Hong Kong
Asia Monitor Resource Center
Association for Democracy and Justice
Association for the Promotion of Public Justice
Caritas Hong Kong
Christian Industrial Committee
Club Lusitano
Council of Hongkong Indian Associations
Hong Kong Christian Council
Hong Kong Civil Servants General Union
Hong Kong Government
Hong Kong Dawoodi Bohra Association
Hongkong Observers
Meeting Point
Society of Community Organisation
Urban Council
UMELCO (Unofficial members of the Executive and Legislative Councils)
Zoroastrian Charity Funds of Hong Kong, Canton and Macao

as well as many individuals who contacted us separately during our visit

APPENDIX 2

CHINESE AND BRITISH NATIONALITY LAW FOR PEOPLE FROM HONG KONG

Chinese nationality law

- forbids dual nationality (Article 3)
- allows Chinese nationality to anyone born in China whose parents are Chinese nationals or one of whose parents is a Chinese national (Article 4)
- allows Chinese nationality to anyone born abroad with one parent who is a Chinese national; unless the Chinese parent(s) has/have settled abroad and the child acquired foreign nationality at birth (Article 5)
- allows the children of those settled in China who are stateless or of uncertain nationality to become Chinese nationals (Article 6)
- permits the acquisition of Chinese nationality by aliens or stateless people if they are close relatives of Chinese nationals, or have settled in China, or have other legitimate reasons. (Article 7). (This is wholly discretionary, and no criteria are given.)

British nationality proposals for peole from Hong Kong are in the Draft Order in Council of 17 October 1985 (Cmnd 9637). They provide that

- British Dependent Territories status for people from Hong Kong will cease on 1 July 1997 (s.3)
- from 1 July 1987, Hong Kong BDTCs may apply to register and acquire a new status, British National (Overseas) (s.4); this will be possible only until 1 July 1997 (or before the end of 1997 in the case of children born during that year).
- any Hong Kong BDTC who does not register as a British National (Overseas) and has no other citizenship will automatically become a British Overseas citizen (s.6(1))
- a child born on or after 1 July 1997 to a British National (Overseas) or a British Overseas citizen under s.6(1) and who would otherwise be stateless will acquire British Overseas citizenship (s.6(2))
- a child born on or after 1 July 1997 to a parent a) who is a British Overseas citizen by virtue of s.6(2) and b) whose father or mother was immediately before 1 July 1997 a Hong Kong BDTC otherwise than by descent, will be entitled to be registered as a British Overseas citizen within twelve months of the birth if s/he would otherwise be stateless.

British National (Overseas) status and British Overseas citizenship carry no right of abode in British law and cannot be passed on to children.

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6. *1997: The Hong Kong Dilemma* (November 1982) p.9
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